



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2011-0596; FRL-9901-09-Region5]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; Redesignation of the Dayton-Springfield Area to Attainment
of the 1997 Annual Standard for Fine Particulate Matter;**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting, under the Clean Air Act (CAA), the State of Ohio's June 1, 2011, request to redesignate the Dayton-Springfield (Dayton) nonattainment area (Clark, Greene, and Montgomery Counties) to attainment for the 1997 annual national ambient air quality standard (NAAQS or standard) for fine particulate matter (PM_{2.5}). EPA is approving the related state implementation plan (SIP) elements including comprehensive emissions inventories, the maintenance plan, and the motor vehicle emissions budgets (MVEBs). EPA has determined that the area has attained the standard and proposed to approve Ohio's request on July 26, 2013.

DATES: This final rule is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2011-0596. All documents in the

docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. Background Information

II. What are the Responses to Comments?

III. What Final Action is EPA Taking?

IV. Statutory and Executive Order Reviews.

I. Background Information

On June 1, 2011, Ohio submitted a request for EPA to redesignate the Dayton-Springfield, Ohio nonattainment area to attainment of the 1997 annual PM_{2.5} NAAQS. Ohio also requested EPA approval of the SIP revision containing an emissions inventory and a maintenance plan for the area.

In a supplemental submission to EPA on April 30, 2013, Ohio submitted ammonia (NH₃) and volatile organic compounds (VOC) emissions inventories to supplement the emissions inventories for PM_{2.5}, nitrogen oxides (NO_x), and sulfur dioxide (SO₂) that were submitted on June 1, 2011.

EPA proposed to redesignate the Dayton area and to approve related elements on July 26, 2013 (78 FR 45135). This action included the proposed approval of a comprehensive emissions inventory for PM_{2.5}, NO_x, SO₂, NH₃, and VOC, a maintenance plan, and MVEBs. The comment period ran until August 26, 2013. A summary of the comments received and EPA's responses are given in section II.

II. What are the Responses to Comments?

EPA received three sets of comments during the comment period provided on the proposed rule. One set of comments, both supportive and for clarification, came from the Miami Valley Regional Planning Commission (MVRPC) on August 2, 2013. Two sets of supportive comments came from the Regional Air Pollution Control Agency on August 13, 2013, and from the Ohio Utility Group on August 26, 2013. The clarification comment from MVRPC with EPA's response is below.

Comment: MVRPC noticed the discussion about MVEBs in the proposed rule included the proposed approval of the MVEBs, but the proposed rule did not list the actual MVEBs for the Dayton area. MVRPC referenced the Dayton area MVEBs provided by Ohio in its June 1, 2011, submission.

Response: While EPA listed the emission budgets and explained that a 15 percent safety margin was added to the emission budgets to set the MVEBs, MVRPC is correct that EPA did not list the Dayton area MVEBs. EPA did propose approval of the MVEBs, so EPA is approving the Dayton area MVEBs in this final rule. For clarity, the Dayton area MVEBs are provided in Table 1. The total MVEBs are calculated by adding 15 percent to the onroad mobile sources emission estimates that were provided in the proposed rule on Table 6 (78 FR 45150).

Table 1. MVEB for the Dayton Area (tons per year)

	2015 Emissions	2015 Safety Margin	2015 Mobile Budget	2022 Emissions	2022 Safety Margin	2022 Mobile Budget
PM _{2.5}	351.68	52.75	404.43	227.24	34.09	261.33
NO _x	11,187.43	1,678.11	12,865.54	5,452.73	817.91	6,270.64

III. What Final Action is EPA Taking?

EPA has determined that the Dayton area is attaining the 1997 annual PM_{2.5} NAAQS and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus approving the request from Ohio EPA to change the legal designations of the Dayton area from nonattainment to attainment for the 1997 annual PM_{2.5} standard. EPA is also approving Ohio's PM_{2.5} maintenance plan for the Dayton area as a revision to the Ohio SIP, as it meets the requirements of section 175A of the CAA. EPA is approving the 2005 and 2008 NO_x, direct PM_{2.5}, SO₂ emission inventories along with the 2007/2008 ammonia and VOC emissions inventories as meeting the comprehensive emissions inventory requirements of section 172(c)(3) of the CAA. EPA is also approving the MOVES-based NO_x and direct PM_{2.5} 2015 and 2022 MVEBs for the Dayton area for transportation conformity purposes. These MVEBs will be used in future transportation conformity analyses for the area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon

publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. This final rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, it relieves Ohio of planning requirements for the Dayton PM_{2.5} nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication.

IV. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section

107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely do not impose additional requirements beyond those imposed by state law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determinations of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of PM_{2.5} national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. These actions are not "major rules" as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court

of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b) (2) .)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Particulate matter.

40 CFR Part 81

Environmental protection, Air pollution control, National
parks, Wilderness areas.

Dated: September 6, 2013.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1880 is amended by adding paragraphs (p)(7) and (q)(7) to read as follows:

§ 52.1880 Control strategy: Particulate matter.

* * * * *

(p) * * *

(7) The Dayton-Springfield, Ohio nonattainment area (Clark, Greene, and Montgomery Counties), as submitted on June 1, 2011, and on April 30, 2013. The maintenance plan establishes 2015 motor vehicle emissions budgets for the Dayton-Springfield area of 404.43 ton per year (tpy) PM_{2.5} and 12,865.54 tpy nitrogen oxides (NO_x) and 2022 motor vehicle emissions budgets of 261.33 tpy PM_{2.5} and 6,270.64 tpy NO_x.

(q) * * *

(7) Ohio's 2005 and 2008 NO_x, primary PM_{2.5}, and SO₂ and 2007/2008 ammonia and VOC emissions inventories satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Dayton-Springfield area.

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PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. Section 81.336 is amended by revising the entry for Dayton-Springfield, OH in the table entitled "Ohio--PM_{2.5} (Annual NAAQS)" to read as follows:

§81.336 Ohio.

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Ohio--PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *		
Dayton-Springfield, OH: Clark County Greene County Montgomery County	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * * *		

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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.